

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ZULEIKA A. ROSARIO,

Plaintiff,

-v-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

CIVIL ACTION NO. 23 Civ. 5826 (ER) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge.

On July 5, 2023, pro se Plaintiff Zuleika Rosario (“Ms. Rosario”) commenced this action pursuant to Section 205(g) of the Social Security Act, as amended, 42 U.S.C. § 405(g), seeking review of the denial by the Commissioner of the Social Security Administration (the “Commissioner”) of her applications for Supplemental Security Income and Disability Insurance Benefits. (ECF No. 1 (the “Complaint”). On October 18, 2023, the Commissioner filed the certified administrative record. (ECF No. 11 (the “Record”). Pursuant to the Court’s Standing Order applicable to actions seeking judicial review of final decisions by the Commissioner, Ms. Rosario’s brief in support of her requested relief was due “within 30 days after” the Commissioner filed the Record, i.e., by November 17, 2023. (ECF No. 3 at 1). The Standing Order also provides that, “if a plaintiff who is appearing pro se fails to file a brief for the requested relief within the [required] time period . . . , the Commissioner must nonetheless file a brief and serve it on the plaintiff within 30 days after the plaintiff’s brief was due[.]” (Id. at 2). “If the plaintiff disagrees with the disposition requested by the Commissioner, the plaintiff may file an

opposition brief and serve it on the Commissioner within 14 days after service of the Commissioner's brief[.]" (Id.)

Ms. Rosario did not file her brief by the November 17, 2023 deadline. Accordingly, on December 18, 2023, the Commissioner filed and served his brief, arguing that the Court should affirm the Commissioner's denial of Ms. Rosario's applications. (ECF No. 16 (the "Commissioner's Brief"); see ECF No. 17). Per the Standing Order, Ms. Rosario's response (the "Response") to the Commissioner's Brief was due by January 2, 2024. To date, Ms. Rosario has not filed a Response.

In light of Ms. Rosario's pro se status, the Court will afford her one final opportunity to file a Response. Accordingly, the Court ORDERS that Ms. Rosario shall file her Response to the Commissioner's Brief by **February 9, 2024**. **Ms. Rosario is warned that her failure to file a Response will result in the Court resolving her claims based on the Commissioner's Brief alone, and may result in the Court granting the Commissioner's requested relief and dismissing this action with prejudice.**

The Commissioner shall promptly serve a copy of this Order on Ms. Rosario and file proof of service by **January 12, 2024**.

The Clerk of Court is respectfully directed to mail a copy of this Order to Ms. Rosario.

Dated: New York, New York
January 10, 2024

SO ORDERED.


SARAH L. CAVE
United States Magistrate Judge